

REMARKS

Claims 1-37 are pending in the application.

Double Patenting Rejections

Claims 1-37 stand rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1-67 of U.S. Patent No. 5,921,285 in view of Charboneau, U.S. Patent No. 5,551,484.

As the Examiner knows, determining a basis of nonstatutory double patenting requires determination of whether any claim in the application defines an invention that is merely an obvious variation of an invention in a patent or other patent application. When considering whether the invention defined in a claim of an application is an obvious variation of the invention defined in the claim of the other patent, the disclosure of the other patent may not be used as prior art.

Applicant respectfully submits that the claims of the '285 patent in view of the claims of Charboneau do not render obvious the pending claims. Applicants respectfully note that there is no teaching in '285 patent or Charboneau of a sensor coupled to the wall of a composite tube, as required by the instant claims. In fact, the claims of the Charboneau patent require that "one optical fiber being woven into the woven intermediate layer." Neither the claims of the '285 patent or Charboneau teach each and every limitation of the instant claims. At least for that reason, Applicants respectfully request withdrawal of this rejection.

Claims 1-37 stand rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 5,888,601 in view of Charboneau, U.S. Patent No. 5,551,484. Further, claims 1-37 stand rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,357,485 in view of Charboneau, U.S. Patent No. 5,551,484. As above, Applicants respectfully note that there is no teaching in '285 patent or Charboneau of a

sensor coupled to the wall of a composite tube, as required by the instant claims. In fact, the claims of the Charboneau patent require that “one optical fiber being woven into the woven intermediate layer.” Further, U.S. Patent No. 5,888,601 does appear to be directed to composite tube as instantly disclosed. Neither the claims of the ’601, the ’485 patent or Charboneau teach each and every limitation of the instant claims. At least for these reasons, Applicants respectfully request withdrawal of this rejection.

Rejections under 35 U.S.C. § 103

Claims 1-37 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 6,148,866, U.S. Patent No. 6,286,558, U.S. Patent No. 6,357,485, U.S. Patent No. 6,604,550 and U.S. Patent No. 6,857,452, each respectively in view of Charboneau.

Each of U.S. Patent 6,148,866, U.S. Patent No. 6,286,558, U.S. Patent No. 6,357,485, U.S. Patent No. 6,604,550 to Quigley et al. belong to the same patent family and share the same claimed priority date. Further, each of these patents was commonly owned with the instant application at the time the invention was made, and therefore these patents are not usable in an obviousness rejection under 35 U.S.C. 103(a). At least for this reason, Applicants respectfully request withdrawal of these rejections.

CONCLUSION

In view of the foregoing remarks, Applicants request that the Examiner reconsider and withdraw the pending rejections.

In accordance with 37 C.F.R. § 1.136(a), please grant any extension of time that this paper requires but no accompanying paper requests. Also, please charge any additional fee

occasioned by this paper, or credit any overpayment, to our Deposit Account No. 07-1700,
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